

Report of the Strategic Director of Corporate Services to the meeting of Keighley Area Committee to be held on 26th March 2020 at 06.00pm at Keighley Town Hall

X

Subject:

**Nomination to list property as an Asset of Community Value –
Elliott Street land**

Summary statement:

The Council has received a nomination to list an area of land at Elliott Street, Silsden as an Asset of Community Value under the Localism Act 2011.

This report considers whether the nomination and nominated asset meet the Asset of Community Value criteria set out in the Localism Act and contains a recommendation as to whether or not the nomination should be approved.

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Resources

Portfolio:
Regeneration, Planning & Transport

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Overview & Scrutiny Area:
Corporate

1. SUMMARY

- 1.1 The Council has received a nomination to list an area of land at Elliott Street, Silsden shown edged red on the plan in Appendix 1, as an Asset of Community Value under the Localism Act 2011.
- 1.2 The nomination was made on 10th February 2020. This report considers whether the nomination and nominated asset meet the Asset of Community Value Criteria set out in the Localism Act and contains a recommendation as to whether or not the Director of Corporate Services should approve the Asset of Community Value nomination.

2. BACKGROUND

- 2.1 The Community Right to Bid provisions of the Localism Act 2011 came into effect on 21st September 2012. The purpose of the provisions is to allow communities time to prepare bids for land and property assessed as being of benefit to the community when those assets come up for disposal.

3. OTHER CONSIDERATIONS

3.1 The Community Right to Bid

- 3.1.1 Local community groups and parish councils are able to nominate privately and publicly owned land and property for inclusion on a list of assets of community value. The list is maintained by CBMDC which is also responsible for managing the process for determining whether a nomination of a property as an asset of community value is successful. At its meeting of 6th November 2012 the Executive resolved that Area Committee should recommend a determination of the nomination to the Director of Corporate Services who makes the decision.
- 3.1.2 The listing of land or property as an Asset of Community Value has the effect of preventing owners from disposing of their listed property without first notifying the Council of their intention to sell. The notification of intention to sell triggers a six week moratorium on disposal during which local community groups and parish councils are able to express an interest in bidding for the property. If no expressions of interest are received the owner is free to dispose of his property at the end of the six week period. If an expression of interest is received the initial six week moratorium extends to six months to allow community groups and parish councils to prepare to bid for the property or to negotiate with the property owner. At the end of the six month period the owner is able to sell the property to whoever they want and by whatever means they wish. If the property is not sold within 18 months of the notification of intention to sell the disposal process must start again. Once sold the property is removed from the list.
- 3.1.3 The Community Right to Bid provisions **do not**:
 - Give community groups or parish councils a right of first refusal when listed land and buildings come up for sale.

- Give community groups or a parish council the right to purchase land and property listed as assets of community value at a reduced price i.e. less than market value.
- Compel a property owner to sell to a community group or parish council. Once the procedures set out in the Act are complied with property owners are free to sell their property to whomever they wish.
- Restrict how a property owner can use their property.

3.2 **Definition of an Asset of Community Value**

3.2.1 The Act provides that land or property falls within the definition of asset of community value where a current non-ancillary use furthers the social wellbeing or social interests of the local community **and** where it is realistic to think that such a use can continue, whether or not in the same way. Social interests include culture, recreation and sport. A property will also qualify when a non-ancillary use in the recent past meets the definition **and** it is realistic to think that its use may again fall within the definition within the next five years (whether or not in the same way as before).

3.2.2 The Act sets out details of certain types of land and property which are exempt from the Community Right to Bid provisions.

3.3 **Who can nominate an asset to be listed**

3.3.1 Nominations to list an asset as being of community value can be made by:

- A local voluntary or community group that is incorporated – this means it has a separate legal status from its members.
- A local voluntary or community group that is not incorporated but has at least 21 members who appear on the electoral roll within CBMDC or a neighbouring authority.
- A parish council.
- Neighbouring parish councils – if a parish council borders another parish council area it may nominate an asset within that area.
- Community interest groups with a local connection which has one of the following structures:
 - a) A charity
 - b) A community interest company
 - c) A company limited by guarantee that is non-profit-distributing
 - d) An industrial provident society that is non-profit-distributing

For a local group to be able to nominate it must be able to demonstrate that its activities are wholly or partly concerned with the local authority area within which the asset is located or with a neighbouring authority (which shares a boundary with Bradford).

3.4 **The Nomination**

3.4.1 The nomination form is included as Appendix 2.

3.4.2 Council officers have assessed the nomination to consider whether it meets the criteria set out in the Localism Act 2011, as follows:

3.4.2.1 The nominator The Hive Silsden is a Charitable Incorporated Organisation which is eligible to nominate Assets of Community Value a copy of the Constitution is attached in Appendix 3.

3.4.2.2 The nominated asset is a school playing field that is also used for community events and is not exempt from listing.

3.4.2.3 The present use of the land is a school playing field which is also used for informal and formal recreation activities.

3.4.2.4 The land is currently used as a playing field there it meets the criteria that is likely to be used for community benefit within the next 5 years.

3.4.3 Accordingly, Council officers have assessed that the criteria for listing which have been met.

3.5 Appeals & Listing

3.5.1 Property owners (but not occupiers) may appeal against the Council's decision to list their property as an asset of community value. In the first instance the property owner should ask the Council to review its decision. If the Council upholds its decision to list, the owner may appeal to the First Tier Tribunal.

3.5.2 There is no provision within the Act for nominators to challenge a decision not to list a property or decision to remove a property from the list following a review. However, the Council will be required to provide nominators with reasons why their application is unsuccessful or why a property has been removed from the list.

3.5.3 As mentioned at 3.1.3 above, the listing of land or property as an Asset of Community Value does not prevent a land owner from changing the use of the listed asset. The Act provides that a listed asset can be removed from the list if the nature of the asset changes so that it is unrealistic to expect it to be used for social, sporting, environmental benefits in the near future. An example of substantial change would be the progression of development works.

3.5.4 The listing of an asset is not retrospective and has no effect on binding agreements for sale already in place at the date of listing.

4. FINANCIAL & RESOURCE APPRAISAL

In certain circumstances, a property owner may have a right to compensation for losses incurred as a result of listing.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

None

6. LEGAL APPRAISAL

6.1 Land or property may only be listed as an Asset of Community Value where it meets the criteria and definitions set out in the Localism Act 2011 and the Assets of Community Value Regulations (England) 2012.

6.2 Property owners may seek an internal review of a decision to add a property to the List of Assets of Community Value. If the decision is upheld the owners can appeal against the decision to list their property to the First Tier Tribunal.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

None

7.2 SUSTAINABILITY IMPLICATIONS

None

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

None

7.4 COMMUNITY SAFETY IMPLICATIONS

None

7.5 HUMAN RIGHTS ACT

None

7.6 TRADE UNION

None

7.7 WARD IMPLICATIONS

None

7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)

None

8. NOT FOR PUBLICATION DOCUMENTS

None.

9. OPTIONS

- 9.1 **Option 1:** Recommend that the Director of Corporate Resources accept the nomination on the grounds that it meets the criteria and definition of an Asset of Community Value as set out in the Localism Act 2011.
- 9.2 **Option 2:** Recommend that the Director of Corporate Resources reject the nomination on the grounds that it does not meet the criteria and definition of an Asset of Community Value as set out in the Localism Act 2011.

10. RECOMMENDATIONS

It is recommended in accordance with Option 1 that Keighley Area Committee recommend that the Director of Corporate Resources accept nomination to list the land known as land at Elliot Street shown edged red on the plan attached in Appendix 1 as an Asset of Community Value.

11. APPENDICES

Appendix 1 - Plan
Appendix 2 - Nomination Form (redacted)
Appendix 3 – The Hive Silsden CIO Constitution

12. BACKGROUND DOCUMENTS

Report to the Executive meeting of 6th November 2012; The Localism Act 2011 – The Community Right to Bid.